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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,044	10/17/2003	Clemens Rickert	09202-US	9199

7590

06/18/2004

Kevin J. Moriarty  
Patent Department  
DEERE & COMPANY  
One John Deere Place  
Moline, IL 61265-8098

EXAMINER
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TORRES, ALICIA M

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/688,044

Applicant(s)

RICKERT, CLEMENS

Examiner

Alicia M Torres

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/17/03, 3/1/04</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 7, 8, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Bramley et al., hereafter Bramley.

Bramley discloses an adjusting device (87) for a movable element (82) of a harvesting attachment, the adjusting device (87) is provided with an adjusting drive (88, 89) for moving the movable element (82) between an operating position and a transport position in which the movable element (87) is raised relative to the operating position, characterized by the fact that the movable element (87) is biased in the direction of the transport position by a spring (96), as per claim 1; and

wherein the movable element (82) is pivoted, as per claim 7; and

wherein the movable element (82) comprises a side section that is articulated to a central section of the harvesting attachment in a pivoted fashion (see figure 1), as per claim 8; and

wherein the adjusting drive (88, 89) is provided with a housing (88), the spring (96) is arranged within the housing (88), as per claim 10; and

wherein the adjusting drive (88, 89) is a double acting hydraulic cylinder, as per claim 11.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-6, 9 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bramley in view of Richardson et al., hereafter Richardson, and Mortier et al., hereafter Mortier.

Bramley discloses the device as applied to claim 1 above. Bramely further discloses wherein the movable element (82) comprises a side section that is articulated to a central section of the harvesting attachment in a pivoted fashion (see figure 1), as per claims 6 and 9; and

wherein the adjusting drive (88, 89) is a double acting hydraulic cylinder, as per claim 14.

However, Bramley fails to disclose wherein the movable element can be moved from the operating position into the transport position via an intermediate position in which the movable element is raised relative to the transport position, and by the fact that an additional spring biases the movable element toward the intermediate position from the transport position, as per claim 2; and

wherein the intermediate position represents an equilibrium position of the movable element, as per claim 3; and

wherein the movable element is rigidly connected to the harvesting attachment in the operating position, as per claim 4; and

wherein the movable element is pivoted, as per claim 5; and

wherein the adjusting drive is provided with a housing, the spring and the additional spring are arranged within the housing, as per claims 12 and 13.

Richardson discloses a similar device wherein the movable element (50) can be moved from an operating position into the transport position via an intermediate position in which the movable element (50) is raised relative to the transport position, as per claim 2; and

wherein the intermediate position represents an equilibrium position of the movable element (50), as per claim 3; and

wherein the movable element (50) is rigidly connected to the harvesting attachment in the operating position, as per claim 4; and

wherein the movable element (50) is pivoted, as per claim 5.

Mortier discloses a similar device wherein the movable element (12) can be moved from the operating position (see figure 2) into the transport position (see figure 3) via an intermediate position and by the fact that an additional spring (35) biases the movable element (12) toward the intermediate position from the transport position, as per claim 2.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to the raised intermediate position of Richardson on the device of Bramley in order to obtain a 180 degree turn.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the additional spring of Mortier on the device of Bramley in order to compensate a portion of the weight of the movable part.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the additional spring in the housing of the adjusting drive, as per

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claims 12 and 13, since it has been held that rearranging parts of an invention involves only routine skill in the art.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Looker et al., Loyd et al., and Schumacher et al. have been cited as of interest.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.



**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group Art Unit 3671**

AMT  
June 7, 2004